

As Passed by the House

131st General Assembly

Regular Session

2015-2016

H. B. No. 436

Representatives Cupp, Rogers

Cosponsors: Representatives Amstutz, Arndt, Blessing, Celebrezze, Grossman, Johnson, G., Manning, O'Brien, S., Rezabek, Sheehy, Slaby, Sprague, Antonio, Ashford, Buchy, Dovilla, O'Brien, M., Patterson, Scherer, Sweeney

A BILL

To amend section 4510.13 of the Revised Code to 1
authorize a judge that grants limited driving 2
privileges to a second-time OVI offender to 3
order the termination of the mandatory 4
immobilization order. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4510.13 of the Revised Code be 6
amended to read as follows: 7

Sec. 4510.13. (A) (1) Divisions (A) (2) to (9) of this 8
section apply to a judge or mayor regarding the suspension of, 9
or the grant of limited driving privileges during a suspension 10
of, an offender's driver's or commercial driver's license or 11
permit or nonresident operating privilege imposed under division 12
(G) or (H) of section 4511.19 of the Revised Code, under 13
division (B) or (C) of section 4511.191 of the Revised Code, or 14
under section 4510.07 of the Revised Code for a conviction of a 15
violation of a municipal OVI ordinance. 16

(2) No judge or mayor shall suspend the following portions 17
of the suspension of an offender's driver's or commercial 18
driver's license or permit or nonresident operating privilege 19
imposed under division (G) or (H) of section 4511.19 of the 20
Revised Code or under section 4510.07 of the Revised Code for a 21
conviction of a violation of a municipal OVI ordinance, provided 22
that division (A) (2) of this section does not limit a court or 23
mayor in crediting any period of suspension imposed pursuant to 24
division (B) or (C) of section 4511.191 of the Revised Code 25
against any time of judicial suspension imposed pursuant to 26
section 4511.19 or 4510.07 of the Revised Code, as described in 27
divisions (B) (2) and (C) (2) of section 4511.191 of the Revised 28
Code: 29

(a) The first six months of a suspension imposed under 30
division (G) (1) (a) of section 4511.19 of the Revised Code or of 31
a comparable length suspension imposed under section 4510.07 of 32
the Revised Code; 33

(b) The first year of a suspension imposed under division 34
(G) (1) (b) or (c) of section 4511.19 of the Revised Code or of a 35
comparable length suspension imposed under section 4510.07 of 36
the Revised Code; 37

(c) The first three years of a suspension imposed under 38
division (G) (1) (d) or (e) of section 4511.19 of the Revised Code 39
or of a comparable length suspension imposed under section 40
4510.07 of the Revised Code; 41

(d) The first sixty days of a suspension imposed under 42
division (H) of section 4511.19 of the Revised Code or of a 43
comparable length suspension imposed under section 4510.07 of 44
the Revised Code. 45

(3) No judge or mayor shall grant limited driving 46
privileges to an offender whose driver's or commercial driver's 47
license or permit or nonresident operating privilege has been 48
suspended under division (G) or (H) of section 4511.19 of the 49
Revised Code, under division (C) of section 4511.191 of the 50
Revised Code, or under section 4510.07 of the Revised Code for a 51
municipal OVI conviction if the offender, within the preceding 52
six years, has been convicted of or pleaded guilty to three or 53
more violations of one or more of the Revised Code sections, 54
municipal ordinances, statutes of the United States or another 55
state, or municipal ordinances of a municipal corporation of 56
another state that are identified in divisions (G) (2) (b) to (h) 57
of section 2919.22 of the Revised Code. 58

Additionally, no judge or mayor shall grant limited 59
driving privileges to an offender whose driver's or commercial 60
driver's license or permit or nonresident operating privilege 61
has been suspended under division (B) of section 4511.191 of the 62
Revised Code if the offender, within the preceding six years, 63
has refused three previous requests to consent to a chemical 64
test of the person's whole blood, blood serum or plasma, breath, 65
or urine to determine its alcohol content. 66

(4) No judge or mayor shall grant limited driving 67
privileges for employment as a driver of commercial motor 68
vehicles to an offender whose driver's or commercial driver's 69
license or permit or nonresident operating privilege has been 70
suspended under division (G) or (H) of section 4511.19 of the 71
Revised Code, under division (B) or (C) of section 4511.191 of 72
the Revised Code, or under section 4510.07 of the Revised Code 73
for a municipal OVI conviction if the offender is disqualified 74
from operating a commercial motor vehicle, or whose license or 75
permit has been suspended, under section 3123.58 or 4506.16 of 76

the Revised Code. 77

(5) No judge or mayor shall grant limited driving 78
privileges to an offender whose driver's or commercial driver's 79
license or permit or nonresident operating privilege has been 80
suspended under division (G) or (H) of section 4511.19 of the 81
Revised Code, under division (C) of section 4511.191 of the 82
Revised Code, or under section 4510.07 of the Revised Code for a 83
conviction of a violation of a municipal OVI ordinance during 84
any of the following periods of time: 85

(a) The first fifteen days of a suspension imposed under 86
division (G) (1) (a) of section 4511.19 of the Revised Code or a 87
comparable length suspension imposed under section 4510.07 of 88
the Revised Code, or of a suspension imposed under division (C) 89
(1) (a) of section 4511.191 of the Revised Code. On or after the 90
sixteenth day of the suspension, the court may grant limited 91
driving privileges, but the court may require that the offender 92
shall not exercise the privileges unless the vehicles the 93
offender operates are equipped with immobilizing or disabling 94
devices that monitor the offender's alcohol consumption or any 95
other type of immobilizing or disabling devices, except as 96
provided in division (C) of section 4510.43 of the Revised Code. 97

(b) The first forty-five days of a suspension imposed 98
under division (C) (1) (b) of section 4511.191 of the Revised 99
Code. On or after the forty-sixth day of suspension, the court 100
may grant limited driving privileges, but the court may require 101
that the offender shall not exercise the privileges unless the 102
vehicles the offender operates are equipped with immobilizing or 103
disabling devices that monitor the offender's alcohol 104
consumption or any other type of immobilizing or disabling 105
devices, except as provided in division (C) of section 4510.43 106

of the Revised Code. 107

(c) The first sixty days of a suspension imposed under 108
division (H) of section 4511.19 of the Revised Code or a 109
comparable length suspension imposed under section 4510.07 of 110
the Revised Code. 111

(d) The first one hundred eighty days of a suspension 112
imposed under division (C) (1) (c) of section 4511.191 of the 113
Revised Code. On or after the one hundred eighty-first day of 114
suspension, the court may grant limited driving privileges, and 115
either of the following applies: 116

(i) If the underlying arrest is alcohol-related, the court 117
shall issue an order that, except as provided in division (C) of 118
section 4510.43 of the Revised Code, for the remainder of the 119
period of suspension the offender shall not exercise the 120
privileges unless the vehicles the offender operates are 121
equipped with a certified ignition interlock device. 122

(ii) If the underlying arrest is drug-related, the court 123
in its discretion may issue an order that, except as provided in 124
division (C) of section 4510.43 of the Revised Code, for the 125
remainder of the period of suspension the offender shall not 126
exercise the privileges unless the vehicles the offender 127
operates are equipped with a certified ignition interlock 128
device. 129

(e) The first forty-five days of a suspension imposed 130
under division (G) (1) (b) of section 4511.19 of the Revised Code 131
or a comparable length suspension imposed under section 4510.07 132
of the Revised Code. On or after the forty-sixth day of the 133
suspension, the court may grant limited driving privileges, and 134
either of the following applies: 135

(i) If the underlying conviction is alcohol-related, the 136
court shall issue an order that, except as provided in division 137
(C) of section 4510.43 of the Revised Code, for the remainder of 138
the period of suspension the offender shall not exercise the 139
privileges unless the vehicles the offender operates are 140
equipped with a certified ignition interlock device. 141

(ii) If the underlying conviction is drug-related, the 142
court in its discretion may issue an order that, except as 143
provided in division (C) of section 4510.43 of the Revised Code, 144
for the remainder of the period of suspension the offender shall 145
not exercise the privileges unless the vehicles the offender 146
operates are equipped with a certified ignition interlock 147
device. 148

If a court grants limited driving privileges under 149
division (A)(5)(e) of this section, the court may issue an order 150
terminating an immobilization order issued pursuant to division 151
(G)(1)(b)(v) of section 4511.19 of the Revised Code to take 152
effect concurrently with the granting of limited driving 153
privileges. The court shall send notice of the termination of 154
the immobilization order to the registrar of motor vehicles. 155

Upon receiving information that an offender violated any 156
condition imposed by the court at the time an immobilization 157
order was terminated under this section, the court may hold a 158
hearing and, in its discretion, issue an order reinstating the 159
immobilization order for the balance of the immobilization 160
period that remained when the court originally ordered the 161
termination of the immobilization order. The court may issue the 162
order only upon a showing of good cause that the offender 163
violated any condition imposed by the court. The court shall 164
send notice of the reinstatement of the immobilization order to 165

the registrar. 166

(f) The first one hundred eighty days of a suspension 167
imposed under division (G) (1) (c) of section 4511.19 of the 168
Revised Code or a comparable length suspension imposed under 169
section 4510.07 of the Revised Code. On or after the one hundred 170
eighty-first day of the suspension, the court may grant limited 171
driving privileges, and either of the following applies: 172

(i) If the underlying conviction is alcohol-related, the 173
court shall issue an order that, except as provided in division 174
(C) of section 4510.43 of the Revised Code, for the remainder of 175
the period of suspension the offender shall not exercise the 176
privileges unless the vehicles the offender operates are 177
equipped with a certified ignition interlock device. 178

(ii) If the underlying conviction is drug-related, the 179
court in its discretion may issue an order that, except as 180
provided in division (C) of section 4510.43 of the Revised Code, 181
for the remainder of the period of suspension the offender shall 182
not exercise the privileges unless the vehicles the offender 183
operates are equipped with a certified ignition interlock 184
device. 185

(g) The first three years of a suspension imposed under 186
division (G) (1) (d) or (e) of section 4511.19 of the Revised Code 187
or a comparable length suspension imposed under section 4510.07 188
of the Revised Code, or of a suspension imposed under division 189
(C) (1) (d) of section 4511.191 of the Revised Code. On or after 190
the first three years of suspension, the court may grant limited 191
driving privileges, and either of the following applies: 192

(i) If the underlying conviction is alcohol-related, the 193
court shall issue an order that, except as provided in division 194

(C) of section 4510.43 of the Revised Code, for the remainder of 195
the period of suspension the offender shall not exercise the 196
privileges unless the vehicles the offender operates are 197
equipped with a certified ignition interlock device. 198

(ii) If the underlying conviction is drug-related, the 199
court in its discretion may issue an order that, except as 200
provided in division (C) of section 4510.43 of the Revised Code, 201
for the remainder of the period of suspension the offender shall 202
not exercise the privileges unless the vehicles the offender 203
operates are equipped with a certified ignition interlock 204
device. 205

(6) No judge or mayor shall grant limited driving 206
privileges to an offender whose driver's or commercial driver's 207
license or permit or nonresident operating privilege has been 208
suspended under division (B) of section 4511.191 of the Revised 209
Code during any of the following periods of time: 210

(a) The first thirty days of suspension imposed under 211
division (B) (1) (a) of section 4511.191 of the Revised Code; 212

(b) The first ninety days of suspension imposed under 213
division (B) (1) (b) of section 4511.191 of the Revised Code; 214

(c) The first year of suspension imposed under division 215
(B) (1) (c) of section 4511.191 of the Revised Code; 216

(d) The first three years of suspension imposed under 217
division (B) (1) (d) of section 4511.191 of the Revised Code. 218

(7) In any case in which a judge or mayor grants limited 219
driving privileges to an offender whose driver's or commercial 220
driver's license or permit or nonresident operating privilege 221
has been suspended under division (G) (1) (b), (c), (d), or (e) of 222
section 4511.19 of the Revised Code, under division (G) (1) (a) of 223

section 4511.19 of the Revised Code for a violation of division 224
(A) (1) (f), (g), (h), or (i) of that section, or under section 225
4510.07 of the Revised Code for a municipal OVI conviction for 226
which sentence would have been imposed under division (G) (1) (a) 227
(ii) or (G) (1) (b), (c), (d), or (e) of section 4511.19 of the 228
Revised Code had the offender been charged with and convicted of 229
a violation of section 4511.19 of the Revised Code instead of a 230
violation of the municipal OVI ordinance, the judge or mayor 231
shall impose as a condition of the privileges that the offender 232
must display on the vehicle that is driven subject to the 233
privileges restricted license plates that are issued under 234
section 4503.231 of the Revised Code, except as provided in 235
division (B) of that section. 236

(8) In any case in which the offender operates a motor 237
vehicle that is not equipped with an ignition interlock device, 238
circumvents the device, or tampers with the device or in any 239
case in which the court receives notice pursuant to section 240
4510.46 of the Revised Code that a certified ignition interlock 241
device required by an order issued under division (A) (5) (e), 242
(f), or (g) of this section prevented an offender from starting 243
a motor vehicle, the following applies: 244

(a) If the offender was sentenced under division (G) (1) (b) 245
of section 4511.19 of the Revised Code, on a first instance the 246
court may require the offender to wear a monitor that provides 247
continuous alcohol monitoring that is remote. On a second 248
instance, the court shall require the offender to wear a monitor 249
that provides continuous alcohol monitoring that is remote for a 250
minimum of forty days. On a third instance or more, the court 251
shall require the offender to wear a monitor that provides 252
continuous alcohol monitoring that is remote for a minimum of 253
sixty days. 254

(b) If the offender was sentenced under division (G) (1) 255
(c), (d), or (e) of section 4511.19 of the Revised Code, on a 256
first instance the court shall require the offender to wear a 257
monitor that provides continuous alcohol monitoring that is 258
remote for a minimum of forty days. On a second instance or 259
more, the court shall require the offender to wear a monitor 260
that provides continuous alcohol monitoring that is remote for a 261
minimum of sixty days. 262

(9) In any case in which the court issues an order under 263
this section prohibiting an offender from exercising limited 264
driving privileges unless the vehicles the offender operates are 265
equipped with an immobilizing or disabling device, including a 266
certified ignition interlock device, or requires an offender to 267
wear a monitor that provides continuous alcohol monitoring that 268
is remote, the court shall impose an additional court cost of 269
two dollars and fifty cents upon the offender. The court shall 270
not waive the payment of the two dollars and fifty cents unless 271
the court determines that the offender is indigent and waives 272
the payment of all court costs imposed upon the indigent 273
offender. The clerk of court shall transmit one hundred per cent 274
of this mandatory court cost collected during a month on or 275
before the twenty-third day of the following month to the state 276
treasury to be credited to the state highway safety fund created 277
under section 4501.06 of the Revised Code, to be used by the 278
department of public safety to cover costs associated with 279
maintaining the habitual OVI/OMWI offender registry created 280
under section 5502.10 of the Revised Code. In its discretion the 281
court may impose an additional court cost of two dollars and 282
fifty cents upon the offender. The clerk of court shall retain 283
this discretionary two dollar and fifty cent court cost, if 284
imposed, and shall deposit it in the court's special projects 285

fund that is established under division (E) (1) of section 286
2303.201, division (B) (1) of section 1901.26, or division (B) (1) 287
of section 1907.24 of the Revised Code. 288

(10) In any case in which the court issues an order under 289
this section prohibiting an offender from exercising limited 290
driving privileges unless the vehicles the offender operates are 291
equipped with an immobilizing or disabling device, including a 292
certified ignition interlock device, the court shall notify the 293
offender at the time the offender is granted limited driving 294
privileges that, in accordance with section 4510.46 of the 295
Revised Code, if the court receives notice that the device 296
prevented the offender from starting the motor vehicle because 297
the device was tampered with or circumvented or because the 298
analysis of the deep-lung breath sample or other method employed 299
by the device to measure the concentration by weight of alcohol 300
in the offender's breath indicated the presence of alcohol in 301
the offender's breath in a concentration sufficient to prevent 302
the device from permitting the motor vehicle to be started, the 303
court may increase the period of suspension of the offender's 304
driver's or commercial driver's license or permit or nonresident 305
operating privilege from that originally imposed by the court by 306
a factor of two and may increase the period of time during which 307
the offender will be prohibited from exercising any limited 308
driving privileges granted to the offender unless the vehicles 309
the offender operates are equipped with a certified ignition 310
interlock device by a factor of two. 311

(B) Any person whose driver's or commercial driver's 312
license or permit or nonresident operating privilege has been 313
suspended pursuant to section 4511.19 or 4511.191 of the Revised 314
Code or under section 4510.07 of the Revised Code for a 315
violation of a municipal OVI ordinance may file a petition for 316

limited driving privileges during the suspension. The person 317
shall file the petition in the court that has jurisdiction over 318
the place of arrest. Subject to division (A) of this section, 319
the court may grant the person limited driving privileges during 320
the period during which the suspension otherwise would be 321
imposed. However, the court shall not grant the privileges for 322
employment as a driver of a commercial motor vehicle to any 323
person who is disqualified from operating a commercial motor 324
vehicle under section 4506.16 of the Revised Code or during any 325
of the periods prescribed by division (A) of this section. 326

(C) (1) After a driver's or commercial driver's license or 327
permit or nonresident operating privilege has been suspended 328
pursuant to section 2903.06, 2903.08, 2903.11, 2907.24, 329
2921.331, 2923.02, 2929.02, 4511.19, 4511.251, 4549.02, 330
4549.021, or 5743.99 of the Revised Code, any provision of 331
Chapter 2925. of the Revised Code, or section 4510.07 of the 332
Revised Code for a violation of a municipal OVI ordinance, the 333
judge of the court or mayor of the mayor's court that suspended 334
the license, permit, or privilege shall cause the offender to 335
deliver to the court the license or permit. The judge, mayor, or 336
clerk of the court or mayor's court shall forward to the 337
registrar the license or permit together with notice of the 338
action of the court. 339

(2) A suspension of a commercial driver's license under 340
any section or chapter identified in division (C) (1) of this 341
section shall be concurrent with any period of suspension or 342
disqualification under section 3123.58 or 4506.16 of the Revised 343
Code. No person who is disqualified for life from holding a 344
commercial driver's license under section 4506.16 of the Revised 345
Code shall be issued a driver's license under this chapter 346
during the period for which the commercial driver's license was 347

suspended under this section, and no person whose commercial 348
driver's license is suspended under any section or chapter 349
identified in division (C) (1) of this section shall be issued a 350
driver's license under Chapter 4507. of the Revised Code during 351
the period of the suspension. 352

(3) No judge or mayor shall suspend any class one 353
suspension, or any portion of any class one suspension, imposed 354
under section 2903.04, 2903.06, 2903.08, or 2921.331 of the 355
Revised Code. No judge or mayor shall suspend the first thirty 356
days of any class two, class three, class four, class five, or 357
class six suspension imposed under section 2903.06, 2903.08, 358
2903.11, 2923.02, or 2929.02 of the Revised Code. 359

(D) The judge of the court or mayor of the mayor's court 360
shall credit any time during which an offender was subject to an 361
administrative suspension of the offender's driver's or 362
commercial driver's license or permit or nonresident operating 363
privilege imposed pursuant to section 4511.191 or 4511.192 of 364
the Revised Code or a suspension imposed by a judge, referee, or 365
mayor pursuant to division (B) (1) or (2) of section 4511.196 of 366
the Revised Code against the time to be served under a related 367
suspension imposed pursuant to any section or chapter identified 368
in division (C) (1) of this section. 369

(E) The judge or mayor shall notify the bureau of motor 370
vehicles of any determinations made pursuant to this section and 371
of any suspension imposed pursuant to any section or chapter 372
identified in division (C) (1) of this section. 373

(F) (1) If a court issues an immobilizing or disabling 374
device order under section 4510.43 of the Revised Code, the 375
order shall authorize the offender during the specified period 376
to operate a motor vehicle only if it is equipped with an 377

immobilizing or disabling device, except as provided in division 378
(C) of that section. The court shall provide the offender with a 379
copy of an immobilizing or disabling device order issued under 380
section 4510.43 of the Revised Code, and the offender shall use 381
the copy of the order in lieu of an Ohio driver's or commercial 382
driver's license or permit until the registrar or a deputy 383
registrar issues the offender a restricted license. 384

An order issued under section 4510.43 of the Revised Code 385
does not authorize or permit the offender to whom it has been 386
issued to operate a vehicle during any time that the offender's 387
driver's or commercial driver's license or permit is suspended 388
under any other provision of law. 389

(2) An offender may present an immobilizing or disabling 390
device order to the registrar or to a deputy registrar. Upon 391
presentation of the order to the registrar or a deputy 392
registrar, the registrar or deputy registrar shall issue the 393
offender a restricted license. A restricted license issued under 394
this division shall be identical to an Ohio driver's license, 395
except that it shall have printed on its face a statement that 396
the offender is prohibited during the period specified in the 397
court order from operating any motor vehicle that is not 398
equipped with an immobilizing or disabling device. The date of 399
commencement and the date of termination of the period of 400
suspension shall be indicated conspicuously upon the face of the 401
license. 402

Section 2. That existing section 4510.13 of the Revised 403
Code is hereby repealed. 404